IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1379 OF 2006

Star Trade Limited .. Petitioners.

V/s.

Union of India & Others .. Respondents.

Mr.G.V. Murti for the petitioners.

Mr.S.S. Pakale for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 14TH JUNE, 2006.

P.C. :

Rule. Rule returnable forthwith.

2. Heard finally by consent of the parties. Perused petition. Necessity of filing counter is dispensed with as prayed by counsel for the respondents.

3. The factual matrix reveals that the petitioner is an exporter. It has exported goods in question. According to the petitioner - exporter, the container which was shipped came to be wrongly sent to the consignee in India, who, ultimately, refused to claim the consignment.

4. The petitioner - exporter claiming to be the

title holder of the goods in question has approached the respondent No.2 with a request to permit it to take back and re-export the containers containing goods in question vide its application dated 22nd June, 2004.

5. The Commissioner of Customs (Imports) replied to the petitioner through its advocate vide its letter dated 2nd December, 2004 and communicated to it, pursuant to the aforesaid application, to follow the procedure as prescribed in the Public Notice dated 7th November, 2003. In other words, Customs department, subject to compliance of the requirement of the Public Notice has agreed to process the application made by the petitioner for re-export in accordance with law.

6. The learned counsel for the petitioner submits that the Public Notice No.95/2003 dated 7th November, 2003; lays down the procedure to be followed in respect of re-export of imported goods which are not sought to be cleared for home consumption by the importer among others stipulates necessity of production of the original documents so as to establish title to the goods.

7. The learned counsel for the petitioner submits that the original documents are with the

Customs department. He brought to our notice one letter written by the importer to the Appraising Officer (Import), JNPT, Customs House, Nhava Sheva; dated 18th June, 2004; wherein the importer has requested for return of original documents given to the Appraising Officer. According to the learned counsel appearing for the petitioner the original documents are not yet returned by the Appraising Officer (Imports) to the importer, consequently, documents are still in the custody of the Customs department. In this view of the matter, he submits that the Customs department be directed not to insist upon production of original documents.

8. Mr.Pakale, learned counsel appearing for the revenue while reacting to the above submissions submits that for want of instructions, he is not in a position to make any positive statement as to whether or not the original documents are in the custody of the Customs department. He submits that if the original documents are found to be in the custody of the department, production thereof would not be insisted upon. That if for any reason, the original documents are found to be unavailable, it would be open for the petitioner to produce any other document so as to satisfy the requirement of Public Notice. He further assures this Court that the application for re-export shall be considered with expeditious

despatch and shall be decided by a reasoned order within a period of four weeks from the date of receipt of the copy of this order after granting an opportunity of hearing to the petitioner.

9. The submissions made by the learned counsel appearing for the customs department - Revenue are accepted being reasonable. The Customs department is expected to trace original documents, if held by them. The respondents are permitted to decide the application dated 22nd June, 2004 by a reasoned order within four weeks from the date of receipt of the copy of this order following principles of natural justice.

10. In the result, petition stands disposed of in terms of this order with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)